



**JUSTICE AND PUBLIC SAFETY
CABINET
DEPARTMENT OF
JUVENILE JUSTICE
POLICY AND PROCEDURES**

**AUTHORITY and
REFERENCES:
KRS 15A.0652
505 KAR 1:130
KRS 640.040
KRS 640.120
2-JPAS-2-7142,7189**

| | | |
|----------------------------------|---|----------------------|
| CHAPTER: | Juvenile Services in Community | KRS 640.010 |
| SUBJECT: | Initial Contact & Court Support for Youthful Offenders | KRS 532.050 |
| POLICY NUMBER: | DJJ 601.1 | |
| TOTAL PAGES: | 6 | |
| EFFECTIVE DATE: 1/04/2016 | | |
| APPROVAL: | Bob D. Hayter | ,COMMISSIONER |

I. POLICY

Department of Juvenile Justice (DJJ) community services staff shall provide services throughout the District Court and Circuit Court process for Youthful Offenders in order to determine the most appropriate sentencing alternative based upon the risk and needs of the youth, while promoting public safety.

II. APPLICABILITY

This policy and procedure is applicable to all community service staff.

III. DEFINITIONS

Refer to Chapter 600

IV. PROCEDURES

- A. The Juvenile Service Worker (JSW) shall attend all District Court and Circuit Court for all Youthful Offender proceedings.
- B. At arraignment, the District Court shall assure the youth's rights have been explained and followed per KRS 610.060.
- C. The District Court shall determine how a youth is to be tried, and determine whether the youth meets the criteria to be proceeded against as a Youthful Offender, per KRS 635.020.
- D. Per KRS 640.010, the District Court shall, upon motion by the County Attorney, and after the County Attorney has consulted with the Commonwealth Attorney, proceed against a youth as a Youthful Offender where probable cause exists to transfer the case to Circuit Court. A preliminary hearing shall be conducted to determine if the youth shall be transferred to Circuit Court as a Youthful Offender. The JSW may be called to testify at the preliminary hearing. The preliminary hearing shall be conducted in accordance with the Rules of Criminal Procedures.
- E. If a youth is transferred to Circuit Court under KRS 640.010, and the grand jury does not find that there is probable cause to indict the youth as a

| | | |
|--|---|-------------------------------------|
| POLICY NUMBER DJJ 601.1 | EFFECTIVE DATE 1/04/2016 | PAGE NUMBER 2 of 6 |
|--|---|-------------------------------------|

- Youthful Offender, as outlined in KRS 635.020 (2), (3), (5), (6), (7) and (8), but does find that there is probable cause to indict the youth for another criminal offense, the youth shall not be tried as a Youthful Offender in Circuit Court, but shall be returned to District Court to be dealt with as provided in KRS Chapter 635.
- F. At the time the court orders a Presentence Investigation Report (PSI), the case responsibility shall be assigned to the JSW by the JSDS within ten (10) days and case status shall be entered as “Pending” into the Individual Client Record (ICR).
 - G. Regardless of the youthful offender’s age at the time of sentencing, the PSI shall be completed by community services staff.
 - H. The JSW shall provide the youth and family with information regarding service complaints in accordance with Civil Rights Act, Section 504 of the Rehabilitation Act, American with Disabilities Act 1990, and Health Insurance Portability and Accountability Act (HIPAA), and Title IV -B, IV-E, and XX of the Social Security Act. Reference DJJPP Chapter 6 (Service Complaints).
 - I. The assigned JSW shall secure the youth and parent or guardian’s written consent for each collateral service agency to be contacted for release of information necessary for the completion of the PSI.
 - J. The JSW shall complete the PSI using the Risk and Criminogenic Needs Assessment (RCNA) and dispositional matrix to provide recommendations to the court. Reference DJJPP Chapter 2 “Classification and Placement Manual”.
 - K. Charges originating outside the youth’s county of residence:
 - 1. The youth’s county of residence shall be the determining factor when deciding case responsibility for a youth not currently under the supervision of the DJJ.
 - a. When a non-DJJ youth appears in court for youthful offender charges in a county other than the county in which he or she resides, the JSW of the youth’s county of residence is required to complete a RCNA and PSI. The JSW and JSDS in the county where the youth’s charges originate shall make all court documentation pertaining to the youth and charges and demographic information available to the JSW and respective JSDS in the youth’s county of residence.
 - b. The JSDS in the county of residence shall assign a JSW to complete the RCNA and PSI.
 - c. The assigned JSW in the county of residence shall complete the RCNA and PSI and forward to the JSW and respective JSDS in the county where charges originated.
 - d. The receiving JSW and JSDS shall review the RCNA and PSI for necessary changes or requirements pertaining to their county.

| | | |
|--|---|-------------------------------------|
| POLICY NUMBER DJJ 601.1 | EFFECTIVE DATE 1/04/2016 | PAGE NUMBER 3 of 6 |
|--|---|-------------------------------------|

- e. All documentation in the ICR shall be the responsibility of the JSW in the youth's county of residence.
 2. County of residence is determined by residence of the youth's home at the time of sentencing.
 3. During the completion of the RCNA and PSI, if a youth relocates outside the county of residence, the JSW shall complete and forward the historical information to the receiving county JSW and JSDS. The receiving JSW shall complete the PSI based on the historical data or information, while taking into consideration the services and sentencing options available in the receiving county.
 4. For a youth currently probated or committed to the Department, the responsibility to complete the RCNA and PSI shall be that of the JSW in the youth's county of residence and with case management responsibility.
- L. Presentence Investigation Report (PSI)**
1. The PSI shall not be waived; however, the completion of the PSI may be delayed until after sentencing upon the request of the youth and Counsel. Reference KRS 532.050(1).
 2. Following conviction, the assigned JSW shall complete a PSI on convicted Youthful Offenders and enter the information in the Individual Client Record (ICR). (Reference KRS 640.030 and 532.050(2)) The JSW shall enter the case status as "Pending" into the client record.
 3. The JSW shall do the following to complete the PSI:
 - a. Complete the RCNA.
 - b. Obtain and review the following official or professional records:
 - i. Educational records;
 - ii. Legal and criminal history;
 - iii. Psychological, psychiatric, treatment records (in-patient, out-patient treatment); and
 - iv. Other behavioral assessments, ratings or checklists as they are available.
 - c. Conduct interviews with:
 - i. The youth; and,
 - ii. The youth's parents or caregiver.
 - d. Conduct collateral contacts, as appropriate, such as extended family members, treatment providers, or staff from other agencies with whom the youth may have been involved.
 4. The JSW shall obtain and include the following in the PSI:
 - a. Results of the RCNA;
 - b. Analysis of the youthful offender's history of delinquency or criminality;
 - c. Physical and mental condition;

| | | |
|--|---|-------------------------------------|
| POLICY NUMBER DJJ 601.1 | EFFECTIVE DATE 1/04/2016 | PAGE NUMBER 4 of 6 |
|--|---|-------------------------------------|

- d. Family situation and background;
 - e. Economic status;
 - f. Education;
 - g. Occupation;
 - h. Personal habits;
 - i. A preliminary calculation of the credit allowed the youth for time spent in custody prior to commencement of a sentence under KRS 532.120;
 - j. The counseling treatment, educational, and rehabilitation needs of the youth;
 - k. Community and correctional based programs to meet those needs;
 - l. The lack of programs and resources to meet those needs; and
 - m. Any other matters that the court directs to be included.
5. If the youth has been convicted of a sex crime refer to DJJPP Chapter 8 and the “Standard Operating and Procedures Manual for the Treatment of Juvenile Sexual Offenders”.
 6. If the youth is adjudicated guilty of an offense pursuant to KRS Chapter 510 which has sexual intercourse or deviate sexual intercourse as an element, or has sexual contact as an element, the Presentence Investigation Report recommendation shall request that the court order the youth to submit to medical tests for sexually transmitted diseases (STDs), to include human immunodeficiency virus (HIV) test, if such tests have not already been completed as required by KRS 635.110 and KRS 510.320. The JSW shall request the court to write a separate and specific order for STDs and an Order for Human Immunodeficiency Virus (HIV) Testing (AOC-499.1).
 7. The results of the RCNA and PSI shall be reviewed and approved by the JSDS in preparation for the sentencing report.
 8. When the Commonwealth Attorney’s recommendation requires fines, restitution, or an alternative mode of payment, the youth’s ability to fulfill the obligation shall be noted in the PSI.
 9. The JSDS or designee shall approve the final PSI.
 10. The approved PSI shall be filed with the Circuit Court Clerk’s office and a copy submitted to the judge, prosecutor, and youth’s attorney within the court-ordered time frame, but not less than five (5) days prior to sentencing if a filing date is not court-ordered.
 11. Following sentencing when the case remains under DJJ jurisdiction, the JSDS shall assign case management to the JSW no later than the next business day.
 12. The JSW shall provide the Prison Rape Elimination Act of 2003 educational brochure to youth and parent or guardian following a

| | | |
|--|---|-------------------------------------|
| POLICY NUMBER DJJ 601.1 | EFFECTIVE DATE 1/04/2016 | PAGE NUMBER 5 of 6 |
|--|---|-------------------------------------|

disposition of probation or commitment to DJJ and obtain youth's signature acknowledging receipt of information.

13. The Commonwealth Attorney is responsible for assuring that the sentencing orders and a concise statement of facts at the trial accompany the Youthful Offender to the residential facility. Reference KRS 640.060.

M. If the youth is sentenced to confinement the JSW and Juvenile Services District Supervisor (JSDS) shall utilize the initial placement matrix to submit the placement referral to the Classification Branch in compliance with the Classification and Placement Manual.

N. The Classification Branch shall ensure youth sentenced as Youthful Offenders are removed from the detention facility within sixty (60) days. Reference KRS 640.030(2).

O. Detention of Youthful Offenders

1. Any youth proceeded against as a Youthful Offender under the provisions of KRS Chapter 640 who is younger than eighteen (18) years of age shall be detained in a secure juvenile detention facility if he or she is unable to meet the conditions of release or bail as established pursuant to KRS Chapter 431 and the Kentucky Rules of Criminal Procedure.
2. Any youth proceeded against as a Youthful Offender under the provisions of KRS Chapter 640 who is eighteen (18) years of age or older shall be lodged as an adult if he or she is unable to meet the conditions of release or bail established pursuant to KRS Chapter 431 and the Kentucky Rules of Criminal Procedure.
3. A JSW shall have contact with youth in non-DJJ detention centers and county adult detention centers at least one (1) time per week.

P. Any youthful offender, regardless of age, convicted of a felony offense under KRS is required to have DNA collected. The JSW or JSS shall ensure that DNA is collected pursuant to applicable state law. Reference KRS 17.170.

Q. Interstate Compact Youth

1. The JSW staff shall open an ICR and provide case management on all cases from sending states that are accepted for courtesy supervision by the Interstate Compact.
2. The JSW shall complete the RCNA at the same time as the Interstate Compact home evaluation.
3. The JSW shall provide the youth and family with information regarding service complaints in accordance with Civil Rights Act, Section 504 of the Rehabilitation Act, American with Disabilities Act 1990, and Health Insurance Portability and Accountability Act (HIPAA), and Title IV-B, IV-E, and XX of the Social Security Act. Reference DJJPP Chapter 6 (Service Complaints).

| | | |
|--|---|-------------------------------------|
| POLICY NUMBER DJJ 601.1 | EFFECTIVE DATE 1/04/2016 | PAGE NUMBER 6 of 6 |
|--|---|-------------------------------------|

V. STAFF TRAINING

- A. The JSDS shall ensure that all community staff are trained as needed to complete Presentence Investigation Reports and receive training annually on the Classification and Placement Manual.
- B. The Division of Placement Services shall provide training regarding Interstate Compact training annually.
- C. The Division of Professional Development staff shall provide individual training of the RCNA and other approved assessment or screening tools as needed.
- D. The Division of Program Services staff shall provide training on the electronic record data entry into the Individual Client Record.

VI. MONITORING MECHANISM

The Division Director of Community and Mental Health Services or designee and the Quality Assurance Branch shall develop monitoring protocols to be used by the JSDS or JSS that review the administration of the following requirements:

- A. Assure that community staff are trained on how to gather information and compose the PSI Reports;
- B. Coordinate annual training for community staff regarding the Classification and Placement Manual;
- C. Review and approve all PSI Reports;
- D. Review the convicted offense to assure the youth qualifies for DNA collection and seek approval from the Juvenile Services Regional Manager in all qualifying offenses;
- E. Register all new community staff for the RCNA training; and
- F. Register all new community staff for the electronic record training.